



SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942

No. 281

WAYNE N. MASON, ADMINISTRATOR OF THE ESTATE OF WIL-
LIAM S. MASON, DECEASED,

Petitioner,

vs.

THE FEDERAL LAND BANK OF BERKELEY,
A CORPORATION.

SUPPORTING BRIEF.

This Court is given authority by Section 240 of the Judicial Code, 28 U. S. C. A., Section 347, page 359 and by Section 24 A of the Bankruptcy Act, to issue the writ of certiorari in this case.

The writ should be granted because:

By Section 75 of the Bankruptcy Act, a farmer may file a petition in the United States District Court and procure the benefits of the Act and upon the filing of the petition by 75 (n) the Federal Court is invested with exclusive jurisdiction over the farmer and his property. By subsection (r) the personal representative of a deceased farmer is a farmer within the purview of the Act. There is no reservation in the statute of any character. The right is

conferred upon the personal representative of a farmer absolutely and unconditionally. He is required to produce no papers except the petition with schedules. It is elementary that a right granted by Congress may not be taken away by a state.

Kalb v. Feuerstein, 308 U. S. 433, 84 L. Ed. 370, in this case the court said:

“The states cannot, in the exercise of control over local laws and practice, vest State Courts with power to violate the supreme law of the land.”

Hines v. Lowery, 305 U. S. 85, 83 Law Ed. 56.

The fact that the Federal Courts do not possess probate powers is beside the question. When the probate court, however, creates a farmer, to-wit: the personal representative of a deceased farmer, that farmer is vested in his representative capacity with all the rights given by the Federal Statute. The state may not create the entity which is instantly possessed of such federal right and at the same time take the right away.

The confusion of the law resulting from different rulings of various courts of the United States and particularly from the direct holding of the Circuit Court of Appeals of the Tenth Circuit, in this case has the effect of denying the right so given.

This situation is further complicated by the requirements of General Order 50-9, which, taken literally, would seem to impose the condition that the order of the probate court be attached in all events. Great deference is given to this General Order resulting in an interpretation which has the effect of a modifying of the statute.

As stated by the Circuit Court of Appeals of the Tenth Circuit in the *Harris* case, it is not competent for a Circuit Court of Appeals to disregard it and hence, the debtor is deprived of the clear statutory right through a combination

l Order 50 and the ruling of a
of the construction of General O
state court.

Harris case in that the pro-
This case differs from the Federal Court at the time of the
ceeding was pending in the Fedes, in this case, the administra-
death of Mrs. Harris, whereas, first instance. Section 8 of the
tor filed the petition in the firsto in the Harris case, but in this
Bankruptcy Law is referred to inarely upon Section 75 of the
case the petitioner stands square
Act.

ad to do with the rights of the
The following cases have had to the statute, but none of them
personal representative under the
are precisely in point, to-wit:

Bank of Louisville, 117 F.

Chapman v. Federal Land

(2d) 321;

. 5th Cir., 109 F. (2d) 289;

Hines v. Farkas, C. C. A. 5th app. 369;

In re Reynolds, 21 Fed. Supp. 616.

In re Buxton's Estate, 14 F.

t should issue.

It is submitted that the writ sh

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